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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**ARMENIA**

**EXPLANATORY NOTE REGARDING DRAFT AMENDMENTS  
TO THE ELECTORAL CODE**

**DRAFT LAWS MAKING AMENDMENTS AND SUPPLEMENTS TO:**

- THE CRIMINAL CODE
- THE CODE ON ADMINISTRATIVE OFFENCES
- THE LABOUR CODE
- THE LAW ON PUBLIC SERVICE

**DRAFT PROPOSAL OF ELECTORAL SYSTEM  
BY THE POLITICAL FACTION “BRIGHT ARMENIA (\*)**

(\*) Translations provided by the Armenian authorities

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## **EXPLANATORY NOTE**

### **REGARDING**

### **DRAFT AMENDMENTS**

### **TO THE ELECTORAL CODE**

### **OF THE REPUBLIC OF ARMENIA**

February 15, 2021

#### **1. Introduction**

- 1.1. The initiative to reform the electoral legislation of the Republic of Armenia was launched immediately after the formation of a new government in 2018. A set of draft amendments were prepared but did not meet the necessary 60% supermajority when voted on by the National Assembly in October 2018. Early elections were held on December 9, 2018, which were seen as free and fair,<sup>1</sup> providing a mandate to the new government to enact democratic reforms, including amendments to the Electoral Code, with the purpose of restoring public trust in the electoral process and the legitimacy of elected authorities. The 2021 amendments to the Electoral Code are premised on realizing those goals.
- 1.2. Several months after election of the parliament, a Working Group was formed from the three parliamentary party factions to implement the electoral reform with the aim of conducting thorough review in an inclusive manner. Simultaneously, an advisory body to the Working Group was formed consisting of Executive branch agencies (Ministry of Justice, Police, Ministry of Territorial Administration), the Central Electoral Commission, the Human Rights Defender's Office, and international organizations and domestic non-governmental organizations that are active in democracy promotion. The priorities of the Working Group's activities, as well as its action plan were discussed and summarized during a June 2019 workshop, attended also by the representatives of the Venice Commission of the Council of Europe and OSCE/ODIHR. During the Working Group's activities, draft amendments to the Electoral Code (with regard to local self-government bodies) were developed and unanimously adopted in June 2020 by the National Assembly, co-sponsored by representatives of both parliamentary opposition parties. The draft amendments to the Constitutional Law On Political Parties, as envisaged in the previously adopted action plan,

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<sup>1</sup> OSCE ODIHR's final report on Early Parliamentary elections, «Armenia, Early Parliamentary Elections, 9 December 2018: Final Report», <https://www.osce.org/files/f/documents/b/7/413555.pdf>

was adopted in December 2020. This package was also supported by MPs representing the opposition and those sitting as independents.

- 1.3. Deputies of the National Assembly, representatives of civil society, extra-parliamentary political parties, international and local experts, representatives of governmental structures have taken part in the working discussions and development of the draft amendments to the Electoral Code. During the summer of 2020, five public discussions on proposed amendments were held online, where representatives of Venice Commission of the Council of Europe and OSCE/ODIHR were invited.<sup>2</sup> In the course of the development of the draft, the observations submitted by the Venice Commission in 2016, as well as the 2018 proposals were taken as a starting point. The draft has been developed with the technical support of IFES Armenia. The draft will be made publicly available in parallel to submission for joint opinion by Venice Commission of the Council of Europe and OSCE/ODIHR, followed by public discussions, as well as parliamentary hearings (end of February). With the support of IFES Armenia, a two-day workshop has already been scheduled and will include the participation of parliamentary and extra-parliamentary political parties. A separate briefing for journalists covering the amendments is also being arranged.
- 1.4. The main purpose of the amendments to the Electoral Code is to ensure the integrity of the electoral process. They include appropriate administrative and criminal liability for violations. The main amendments include:
- eliminating the district candidate lists, such that parties submit only the nationwide list of candidates, simplifying the proportional electoral system,
  - lowering the minimum electoral threshold and electoral deposit for political parties,
  - liberalizing the procedure for forming governing coalitions,
  - increasing oversight of electoral processes, including revising the procedures for dispute resolution,
  - gradually digitizing election administration,
  - clarifying restrictions on the use of administrative resources,
  - increasing transparency surrounding campaigning and associated expenditures,
  - making the gender representation quota more effective,
  - ensuring that electoral processes are accessible for persons with disabilities,
  - improving the reliability of the list of electors,
  - reforming regulations on debates and media access,
  - facilitating upcoming municipal Council of Elders elections that are to be held using a proportional electoral system,
  - creating the legal basis for public health guidelines to be implemented for elections taking place during a pandemic.

## **2. General Provisions (Chapter 1, Articles 1, 7, 8, 9)**

- 2.1. Article 7 of the draft regulates the conduct of elections during martial law or a state of emergency. Conducting local self-government (LSG) elections during a state of emergency

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<sup>2</sup> [http://parliament.am/news.php?cat\\_id=2&NewsID=13227&year=2020&month=08&day=06&lang=arm](http://parliament.am/news.php?cat_id=2&NewsID=13227&year=2020&month=08&day=06&lang=arm)

will not be permitted if a state of emergency is declared over the entire territory of Armenia. If a state of emergency covers only one part of the country, LSG elections will be permitted to take place in unaffected communities. When a state of emergency was declared in 2020 due to the COVID-19 pandemic, LSG elections were delayed because of existing legislation; however, the nature of an emergency may not be so dire as to completely preclude LSG elections in all parts of the country (Article 7.2.). A separate Article allows public health guidelines to be set when an election is to take place during a pandemic (Article 55). These regulations enter into force on September 1, 2021.

- 2.2. Article 8 of the draft adds new requirements for posting information on the CEC website (Article 8.2.).
- 2.3. Political parties and political party alliances will be required to submit their election platforms (Article 8.4.). This requirement applies to elections for the National Assembly and LSG elections held using the proportional electoral system (applicable to the largest cities).
- 2.4. Election candidates that already submit annual declarations of income and property in accordance with the Law on the Civil Service will be exempt from filing a separate income and property declaration for the election (Article 8.5.)
- 2.5. The result protocols of electoral precincts will be scanned and posted online, together with the signed voter lists confirming turnout. (Article 8.10.)
- 2.6. Sessions of the TECs will be recorded on video and broadcast. For both election precincts and TEC sessions, video recordings shall include a clock and identify the location. The recordings shall be available online after the live broadcast has concluded. A slightly different word for “territorial” will be used in Armenian to avoid acronym confusion with precinct electoral commissions (PECs). (Article 8.12.)
- 2.7. The Central Electoral Commission shall - no later than 2 days after the completion of voting, based on the data registered by the Voter Authentication Devices (VADs) — add information about whether an elector voted in the election or not to the searchable Register of Electors on the CEC website. This information shall remain available until the summarization of the voting results; in the event the results are challenged through judicial procedure, this information shall remain available until the entry into force of the judicial decision. (Article 8.14.)
- 2.8. Article 9 of the draft provides for the modernization of the CEC website, which will enable submissions to the CEC to be made electronically. In particular, it will provide for submitting candidate lists, campaign platforms, political party scrutineers, accrediting election observers and media representatives, registering PEC members for training, and checking the accuracy of the lists of electors. This Article on the modernized CEC website, as well as other related provisions of the Code, enter into force on January 1, 2022.
- 2.9. The modernized CEC website will include functionality to facilitate political party primary elections.

### **3. List of Electors (Chapter 2, Articles 10, 11, 14, 15)**

- 3.1. Article 10 of the draft revises timeframes for election administration. Voter data shall be submitted by region and municipality, instead of electoral district.
- 3.2. To avoid inflated lists of electors, which can be vulnerable to impersonation and double voting, as well as to maintain the accuracy of the list of electors, only individuals who have a valid (unexpired) identification document will be included on the list of electors. Citizens who do not have a valid identification document may still vote, in which case they will be added to the supplementary list of electors (Article 11, Part 1, Article 15).
- 3.3. Electors with reduced mobility may apply to change their place of registration and thus be moved to the list of electors for an alternate precinct to accommodate their accessibility needs. (Article 11, Part 4)
- 3.4. Articles 13 and 15 revise the timeframe for correcting the lists of electors.<sup>3</sup>
- 3.5. The draft stipulates that the signed voter lists shall be published on the CEC website within two days of the election and remain available until the results of the election have been certified. In the event that the results are disputed in court, the signed voter lists shall remain available until the case has been decided (Article 14, Part 7).

### **4. Electoral Precincts (Chapter 3, Articles 18, 19)**

- 4.1. Article 18 specifies that, when multiple polling stations are situated within the same building, they shall have separate entrances.
- 4.2. Article 19 stipulates that, when there is more than one polling station in a municipality, the EMB shall inform electors about the election day, their assigned polling station, the address of the polling station and the hours of operation.

### **5. Election Campaigning (Chapter 4, Articles 20, 21, 22, 23, 24, 25, 26)**

- 5.1. The section regulating election campaigning is one of the most completely amended chapters of the Code.
- 5.2. Article 20 clarifies that the campaign period shall cover the time from the fifth day after the registration of candidates to election day. This amendment widens the scope of expenditures that must be reported. Previously, major items such as renting campaign offices had been left out of expense declarations as they were technically outside the official campaign period.
- 5.3. The draft also defines the forms and means of political advertising.
- 5.4. With the amendments to Article 21, the rules for the conduct of election advertising through mass media are extended to cable and online TV channels. Communities with more than 70,000 electors will also be required to hold a TV debate for their LSG elections between the top-ranked candidates of the participating political parties. The draft also stipulates that the public television channel must provide sign language translation during

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<sup>3</sup> The amendment reflects Venice Commission recommendation CDL-PI(2016)004, 61

free campaign airtime and TV debates. Recordings of these videos shall also include subtitles.

- 5.5. Article 22 defines the accountability and transparency regulations for Internet advertisement, while the amendments to the Criminal Code provide for liability for slandering candidates through campaigns containing elements of coordinated inauthentic behavior.
- 5.6. Article 23 clarifies that campaign posters may only be placed on panels designated specifically for this purpose (regardless of their location) and on the sides of private cars or buildings. As for outdoor billboards, the requirement for equal distribution is expanded and automated. These provisions enter into force on January 1, 2022.
- 5.7. The amendments to Article 24 provide for more effective regulations on the prohibition of charity endeavours during elections and third-party advertising.
- 5.8. Article 25 of the draft defines the concept of administrative resources and restricts their misuse during elections. Regulations are put in place on the conduct of officials and public servants, granting leave for public servants and candidates, separating official business trips from campaign activity, and persons prohibited from engaging in election advertising.
- 5.9. Article 25 also prohibits compelling people to participate in campaign activity and rallies, or altering budget allocations or social security payments during the election period.
- 5.10. Article 26 of the draft regulates third party expenditures associated with election campaigns. Such participants will be required to register and provide a financial disclosure. This Article enters into force on January 1, 2022, by which time the Central Electoral Commission will define the registration procedure for third parties, as well as the electronic form for submitting campaign expenditure and funding source information.

## **6. Funding of Elections (Chapter 5, Articles 28, 29, 30)**

- 6.1. Article 28 of the draft reduces the electoral threshold needed for the return of electoral deposits to political parties to 2 percent.
- 6.2. Article 29 of the draft stipulates that transactions associated with the campaign account must not rely on petty cash. All financial donations must be conducted through electronic fund transfers and expenditures must be mainly non-cash.<sup>4</sup>
- 6.3. Article 30 of the draft defines the expanded list of expenditures that must be made from the campaign account and declared, as well as the maximum allowable amount of non-cash expenditures.
- 6.4. Article 30 also stipulates that any remaining balance available in the campaign account of political parties is transferred to the political party after the end of the election. For LSG elections, it is transferred to the political party that nominated the candidate (if any) or to the budget of the given local community (if self-nominated).

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<sup>4</sup> The amendment reflects Venice Commission recommendation CDL-PI(2016)004, 73

6.5. Article 31 clarifies the requirements for financial declarations, while Article 32 expands the composition of the Oversight and Audit Service of the commission, as well as the supervisory powers.<sup>5</sup>

## **7. Observers, Scrutineers, Mass Media Representatives, Authorized Representatives (Chapter 6, Articles 30, 31, 36)**

7.1. Article 30 of the draft formulates that organizations carrying out observation missions ensure public oversight over the electoral process.

7.2. Article 31 revises the timeframes for accreditation and stipulates that it be implemented through the modernized CEC website. Prior to completion of the website's overhaul, the Central Electoral Commission shall set the electronic forms of documents required for accreditation of observers, mass media representatives, and the procedure for their submission through the new website.

7.3. Given that the prohibitions on scrutineers defined by the Code are practically impossible to enforce in the absence of a registration requirement, Article 36 establishes an online registration requirement for scrutineers. Registration through the CEC website facilitates the enforcement of excluding ineligible actors. For example, an election observer may not also register as a scrutineer for a political party or candidate.

## **8. System, Functions of Electoral Commissions. Status of Members of Electoral Commissions (Chapter 7, Articles 42, 46)**

8.1. Article 42 of the draft stipulates that those with a state or community leadership position may not be members of a TEC.

8.2. Article 46 expands eligibility criteria and timeframes for becoming a TEC member.

## **9. Formation of Electoral Commissions (Chapter 8, Articles 51, 52, 53)**

9.1. Article 51 of the draft stipulates that TEC decisions and conduct may be appealed by local observation missions if the principles of suffrage guaranteed by the Constitution are violated.

9.2. Article 51 also provides for observers who are present at the precinct to challenge the voting results.

9.3. Article 52 of the draft allows for the electronic submission of applications. The Article enters into force on January 1, 2022. The Central Electoral Commission shall define the procedure for submitting applications to electoral commissions electronically.

9.4. Article 53 of the draft provides for randomized recount audits, unrelated to officially-challenged results.

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<sup>5</sup> The amendment reflects Venice Commission recommendation CDL-PI(2016)004, 77, 78



## **10. Functions and Powers of Electoral Commissions (Chapter 9, Articles 54, 56, 59)**

- 10.1. Article 54 defines the responsibility for publicizing the election to the different levels of electoral commission.
- 10.2. Article 56 of the draft defines what information is provided by TECs to the CEC.
- 10.3. Article 59 clarifies the functions of law enforcement bodies on the election day.

## **11. Organization of Voting (Chapter 10, Article 63)**

- 11.1. Article 63 of the draft stipulates that, during the elections of Councils of Elders held using the proportional electoral system, the principle of voting in the elections of the National Assembly is applied. That is, separate ballots are printed for each political party/political party alliance. If only one political party or political party alliance is running in the elections, a separate “against all” ballot paper is provided.<sup>6</sup>

## **12. Voting Procedure (Chapter 11, Article 71)**

- 12.1. Article 71 clarifies the voting procedure and stipulates that ballot pens are not to be used for elections using the proportional electoral system.

## **13. Procedure for Summarization and Tabulation of Voting Results, Determination of Inaccuracies and Summarization of Election Results (Chapter 12, Article 72, 73)**

- 13.1. Article 72 of the draft removes the procedure for summarizing results by district lists. In this part, the regulations in other related Articles of the Chapter are amended as well.
- 13.2. Article 73 stipulates that a ballot paper is invalid if the envelope contains something other than the ballot paper or there is a note on the ballot paper.

## **14. General Provisions of the Elections of the National Assembly (Chapter 13, Article 81)**

- 14.1. Article 81 of the draft establishes a simple proportional electoral system for elections to the National Assembly.
- 14.2. Electoral districts and, respectively, territorial candidate lists have been phased out.

## **15. Nomination and Registration of Candidates for Deputy (Chapter 14, Articles 84, 86, 87, 89)**

- 15.1. Article 84 of the draft stipulates that the name of a political party alliance must include the names of the political parties forming the alliance.
- 15.2. Article 86 stipulates that the electoral list of political parties/political party alliances is a closed national list, which may have a second part consisting of representatives of national minorities.

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<sup>6</sup> CDL-PI(2016)004, 49, As requirements to register a political party have been recently relaxed, the participation of non-party candidate lists is not provided for.

- 15.3. Candidate lists must be formed in such a way that every three sequential candidates must include a candidate from each gender. The entire candidate list must be formed such that the number of representatives of each gender does not exceed 65 percent.<sup>7</sup>
- 15.4. Article 86 also stipulates that, during the regular elections of the National Assembly, at least the first 30 candidates on a party's electoral list must be approved and nominated by the decision of the political party's congress.
- 15.5. Article 87 of the draft reduces the electoral deposit for political parties to 7,500,000 AMD.
- 15.6. Article 87 also stipulates that the nomination is carried out through the modernized CEC website, and the party's election programme is also included in the registration documents. This provision enters into force on January 1, 2022.
- 15.7. Article 89 stipulates that the registration of a political party's candidate list is rejected, if its by-laws do not comply with the Constitutional Law On Political Parties. Until January 1, 2022, this provision applies only to those political parties that were established after the entry into force of the amendments to the Constitutional Law On Political Parties in 2021.

#### **16. Status of a Candidate for Deputy (Chapter 15, Article 93)**

- 16.1. Article 93 of the draft stipulates that, in the event of a candidate's recusal, an application certified by a notary is considered valid if it is submitted within 3 days following the notary certification. This provision aims to prevent cases where a candidate is forced to prepare a recusal form in advance, to be held by the party leader and used at their discretion in the future. Criminal liability is also established to exclude such compulsions.

#### **17. National Assembly Election Campaigns(Chapter 16, Articles 96, 97)**

- 17.1. During election campaigns, an expenditure limit of 500,000,000 AMD is established. Free airtime provided to political parties/alliances is increased.
- 17.2. Article 97 of the draft regulates the accessibility of campaign materials to military servicemen so that they may make an informed decision. The Article prohibits the military from impeding servicemen from receiving campaign material.

#### **18. Ballot Papers, Summarization of the Results of the Elections to the National Assembly (Chapter 17, Articles 98, 99, 100, 101, 104)**

- 18.1. Article 98 stipulates that the first 3 candidates of the electoral list shall be printed on the ballot paper. In the event of a second round, the ballot paper shall also include the name of the candidate for Prime Minister nominated by the political party/alliance.
- 18.2. Article 99 sets the electoral threshold for political parties to 4 percent. Political party alliances of two parties shall be subject to an 8 percent electoral threshold, those with 3 political parties to a 9 percent electoral threshold, and those of 4 or more to a 10 percent

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<sup>7</sup> The amendment reflects Venice Commission recommendation CDL-PI(2016)004, 15. F

threshold.<sup>8</sup> Notwithstanding these thresholds, a minimum of 3 political parties/alliances shall participate in the distribution of mandates.

18.3. According to Article 100, if any political party or political party alliance receives 50 percent of the mandates, it shall be allocated at least 51 percent of the total mandates. This represents a reduction of the 54 percent stable majority level in the current legislation.

18.4. If any of the political parties/alliances receives more than two thirds of the mandates after the initial distribution calculation, the electoral threshold is reduced to 2 percent for the political party/alliance receiving the next largest vote totals until the share of mandates awarded to the largest party is reduced to two thirds.

18.5. Article 101 of the draft stipulates that a political party/alliance that has received a plurality of mandates during the initial distribution calculation may, within two weeks, form a coalition with other political parties/alliances that have participated in the initial distribution of mandates, so as to form a stable majority. If no coalition is formed within two weeks, other political parties that have participated in the distribution of mandates may, within seven days, form their own coalition granting a stable majority of mandates, if they have agreed on their candidate for Prime Minister.<sup>9</sup>

18.6. If, as a result of the first round of elections, no entity or coalition can collect a 51 percent stable majority, then 42 days following the first round, a second round election will be held between the two political parties/alliances that received the most votes. Those parties/alliances may also form new coalitions with other political parties having participated in the distribution of mandates.

18.7. Article 104 of the draft stipulates that, firstly, the mandates are allocated to the candidates on the first part of the electoral list, in sequential order. If, as a result of distribution of mandates, a party/alliance would allocate more than 70 percent of its mandates to candidates of the same gender, then the next candidates of the under-represented gender are elected instead, so as to ensure at least 30 percent representation.<sup>10</sup>

18.8. Secondly, the mandates are allocated to the representatives of national minorities.

18.9. If a candidate rejects their mandate, causing the share of their party's representatives of any gender to fall below 30 percent, then the mandate is allocated to the next candidate of the less represented gender on the party's list.

## **19. Calling and Holding Elections of the National Assembly (Chapter 18, Article 108)**

19.1. The short timeframes for early elections are defined by the Constitution. The amendments to Article 108 of the Code, within the scope of the existing Constitution, clarify

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<sup>8</sup> CDL-PI(2016)004, 38, Although the Venice Commission concluded that it was desirable for the political parties and political party alliances to set the same electoral threshold, we believe that, in order to institutionalize the development of stable political parties, it is necessary to encourage their independent participation, still allowing for post-election governing coalitions.

<sup>9</sup> The amendment reflects Venice Commission recommendation CDL-PI(2016)004, 14. A

<sup>10</sup> The amendment reflects Venice Commission recommendation CDL-PI(2016)004, 15. F

the timeframes for calling early elections and nominating candidates, extending the campaign period as much as possible.

## **20. General Provisions of the Elections of Local Self-Government Bodies (Chapter 19, Article 109)**

20.1. The large-scale amendments approved in 2020 establish a proportional electoral system in communities having more than 4000 electors and in amalgamated communities. The provision to allocate bonus seats to a party that would otherwise receive between 40 and 50 percent of the mandates has been removed to avoid false majorities. Also, the electoral threshold for political parties was lowered to 4 percent, and for political party alliances to 6 percent, whereas they were previously 6 and 8 percent, respectively.<sup>11 12</sup>

20.2. The amendments to Article 109 of this draft revert multi-dwelling communities having less than 4000 electors back to direct elections for the head of community and Council of Elders, as the number of residents in those communities is too small to ensure meaningful competition for political parties.

## **21. Nominating Candidates for Head of Community and Member of Council of Elders (Chapter 21, Article 112)**

21.1. Article 112 of the draft envisages the nomination and registration of candidates at the local level to also take place through the modernized CEC website. The Article stipulates that the TECs may provide technical assistance for the use of the website. This provision enters into force on January 1, 2022.

## **22. Status of Candidates for Head of Community and Member of Council of Elders (Chapter 22, Article 118)**

22.1. Article 118 of the draft stipulates that, if a candidate recuses himself and submits a notarized form, the document is considered valid only if submitted no later than 3 days after the notary's certification.

## **23. Election Campaign of Candidates for Head of Community and Council of Elders (Chapter 23, Article 119)**

23.1. Article 119 of the draft is amended to reflect the expanded list of expenditures to be declared.

## **24. Summarization of Results of Elections of Head of Community and Member of Council of Elders (Chapter 24, Article 122)**

24.1. The amendments to Article 122 of the draft allow holding an election for head of community, even if only one candidate is nominated. Previously, an election would have to

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<sup>11</sup> The amendment reflects Venice Commission recommendation CDL-PI(2016)004,103

<sup>12</sup> The amendment reflects Venice Commission recommendation CDL-PI(2016)004,105

be redone if only one candidate had registered. Although meant to promote competition, in practice, a shell candidate would be nominated in coordination with the main candidate, and then withdraw prior to the election date, leaving the provision ineffective.

**25. Timeframes and Procedure for Calling and Holding Elections of Head of Community and Member of Council of Elders (Chapter 25, Article 127)**

25.1. Article 127, which is added to the draft, regulates the conduct of elections after martial law or a state of emergency is declared. After martial law or a state of emergency, the regional governor shall make the decision on when to hold elections for head of community or member of Council of Elders.

**26. Calling and Holding Elections of Councils of Elders by Proportional Electoral System (Chapter 27, Article 132)**

26.1. Article 132, which is added to the draft, regulates the conduct of elections using the proportional electoral system after martial law or a state of emergency is declared. For the Council of Elders of Yerevan, the Government shall make the decision on when to hold elections after martial law or a state of emergency. For other communities, the decision shall be made by the regional governor.

**27. Nomination and Registration of Candidates for Member of Council of Elders held by Proportional Electoral System (Chapter 28, Articles 134, 140)**

27.1. The June 2020 amendments stipulate that political parties must nominate at least 15 candidates for elections to the Council of Elders for larger communities that will use the proportional electoral system (except Yerevan). Article 134 of the draft stipulates that political parties and political party alliances must nominate at least one third of the number of members of the Council of Elders defined by law for the given community. If the total number of the nominated candidates of political parties/alliances is less than the number of members of the Council of Elders defined by law in the given community, political parties will have an opportunity to supplement their list of candidates until the registration deadline.

27.2. Each political party/alliance's candidate list must include a representative of each gender in each group of three candidates on their proportional list, for LSG elections using the proportional electoral system. Article 146 ensures that at least 25 percent representation for each gender within each faction.

27.3. To ensure that amalgamated communities have fair representation for each of their settlements, Article 134 also stipulates that candidates from at least 1/2 of the settlements must be represented on the party's electoral list.

27.4. Article 140 of the draft defines circumstances in which elections must be redone (for example, when 2/3 of the Council of Elders is left vacant as a result of the distribution of mandates) and the timeframes for calling new elections.

**28. Status of Candidates for Member of Council of Elders of Communities Held by Proportional Electoral System (Chapter 29, Article 145)**

28.1. Article 145 of the draft stipulates that LSG elections using the proportional electoral system will use the same balloting procedure as those for elections to the National Assembly. In the event that only one political party/alliance is registered, a separate “against all” ballot paper will be provided.

## **Amendments to Related Laws**

### **29. Draft Law On Making Amendments to the Law on Public Service**

- 29.1. The concept of public service is supplemented with a new requirement for political restraint (Article 1).
- 29.2. The draft establishes a prohibition, according to which public servants shall not be entitled to bear symbols affiliated with political parties when performing their official duties, as a component of the requirement for political neutrality and political restraint (Article 2).
- 29.3. A separate Article of the draft regulates the political activity of public servants. Public servants shall have the right to participate in the election campaign, while maintaining political restraint. While participating in political events, public servants shall not occupy official positions or misuse their role or other powers in favor of any political party or candidate. This provision shall not apply to public servants running as candidates in elections. If the public servant participates in public events in an official capacity, he/she must retain the neutrality of their official position (Article 3).
- 29.4. The prohibition on the use of logistical, financial and information means, as well as official information, for non-official purposes is also extended to election campaigns (Article 4).

### **30. Draft Law On Making Amendments to the Labour Code**

- 30.1. The list of types of special-purpose leave is supplemented with a new addition - election leave (Article 1).
- 30.2. For the purpose of participating in election campaigns, persons holding official positions and those in the public service may be provided with unpaid leave in the manner and for the period prescribed by the Electoral Code (Article 2).

### **31. Draft Law On Making Amendments to the Criminal Code**

- 31.1. Criminal liability is envisaged for compelling someone to participate in the activities of an election or referendum campaign, or compelling one to refuse participation in campaign activities. The amendment is mainly conditioned by the introduction of the term "election campaign" in the Electoral Code (Article 1).
- 31.2. The Criminal Code releases a person receiving an electoral bribe from criminal liability, if the person receiving the bribe - within three days following the receipt of the bribe - informs law enforcement bodies about it. The draft removes the three-day time limit in order to encourage self-reporting of the crime to law enforcement bodies.
- 31.3. Criminal liability is envisaged for a member or a candidate of a political party attracting large amounts of illegal funds for financing election expenses. A criminal offense shall be deemed if the funding exceeds the maximum amount prescribed by Law or is from sources not provided for by law (Article 3).

- 31.4. Criminal liability is envisaged for circumventing on a large-scale the prohibition on making donations to the election fund in excess of the amount prescribed by Law, or circumventing on a large-scale the prohibition of funding from sources not provided for by Law. The offense is committed when a large-scale donation is made on another person's behalf, when the original source is not provided for by Law (Article 4).
- 31.5. Criminal liability is established for compelling someone to make a donation to an election fund (Article 5).
- 31.6. Criminal liability is envisaged for making a significant amount of election campaign-related expenses from funds outside the election fund. Criminal liability is also established for submitting false data in a declaration on the use of the election fund, or concealing the data subject to declaration, or for failure to submit a declaration on the use of the election fund before the certification of the results of the election (Article 6).
- 31.7. Criminal liability is defined for compelling a candidate running in elections of the National Assembly, the Council of Elders or community head to submit an application for withdrawal (Article 7).
- 31.8. Criminal liability is established for publishing – during the official campaign period – false information or slander via information technologies or anonymous sources about a political party or a candidate running in elections, for the purpose of damaging the reputation thereof (Article 8).
- 31.9. Article 9 of the draft provides for liability for obstructing the holding of assemblies. It also includes liability for compelling someone to participate in assemblies or to refuse to participate in assemblies, or inducing someone for that purpose through financial means (Article 9).
- 31.10. Criminal liability is envisaged for concealing the fact of holding citizenship of another state from the authorized body of the Government or failing to inform the authorized body thereon, if it is committed by high-ranking officials or persons who seek to hold such positions, who according to the Constitution or laws can only be a citizen of the Republic of Armenia (Article 10).
- 31.11. The list of corruption crimes defined by the Criminal Code is supplemented with a number of new election campaign-related crimes (Article 11).

### **32. Draft Law On Making Amendments to the Code of the Republic of Armenia on Administrative Offences**

- 32.1. The administrative liability for campaigning – on the voting day and the day preceding it – is extended to radio and television broadcasting through cable network and satellite connection, terrestrial and online broadcast. Administrative liability is also envisaged for placing - on the voting day and the day preceding it - political advertisements on the Internet (Article 1).
- 32.2. Article 2 is supplemented with establishing liability for submitting a declaration in violation of the procedure prescribed by law or failing to make election campaign-related expenses from the campaign fund (Article 2).



- 32.3. The new terms “election campaign” and “administrative resource” in the Electoral Code have been added to the Code. Article 3 of the draft provides for liability for conducting an election campaign or referendum campaign by persons not entitled to conduct a campaign, or using administrative resources for the purpose of an election campaign or referendum campaign (Article 3).
- 32.4. Liability is introduced for not indicating information provided by law in the publication of the results of polls during election campaigns, as well as for publishing polls - on the voting day or the day preceding it – in news reports (Article 4).
- 32.5. The amendment introduces the new term “election campaign” as defined in the Electoral Code (Article 5).
- 32.6. Administrative liability is envisaged for continuous parking of a car or continuous presence of a person in the nearby vicinity of a polling station on the voting day, if it continues after a verbal warning (Article 6).
- 32.7. Administrative liability is defined for posting — within the official campaign period — campaign posters, printed campaign and other materials in violation of the procedure prescribed by law (Article 7).
- 32.8. Administrative liability is envisaged for carrying out charity work — within the official campaign period — by organizations which may be associated with political parties, candidates running in elections, as well as by organizations founded or managed by political parties or candidates in the communities where elections are held wherein these candidates, political parties or candidates nominated thereby are running (Article 8).
- 32.9. Administrative liability is established for attracting donations to the campaign fund by a member of the political party or a candidate thereof from sources not provided for by law, or attracting donations in favor of a person, candidate, political party having the right to elect during the elections concerned, that exceeds the maximum contribution limit to the campaign fund prescribed by law (Article 9).
- 32.10. Administrative liability is established for circumventing - by way of presenting a donation as being on behalf of another person - the individual contribution limit to the campaign fund prescribed by law or the prohibition to receive donations from sources not provided for by law (Article 10).
- 32.11. The draft also includes liability for combining election campaigning with official secondments by officials of state and local self-government bodies, as well as conducting election campaigning during official secondments or after completion of the official activities conditioned by the secondment, by using administrative resources (Article 11).
- 32.12. The draft establishes liability for failure by third persons to register with the Central Electoral Commission, making expenses exceeding the maximum amount prescribed by law for the purpose of participating in the election campaign or failure to submit a declaration on the expenses made for election campaigning purposes (Article 12).
- 32.13. Administrative liability is envisaged for failure to use individual protective measures or violating the rules of sanitary and epidemiological safety in an electoral precinct or when conducting election campaigning, if an official epidemic has been declared (Article 13).

32.14. The draft also defines the bodies responsible for compiling a protocol on violations prescribed by law and for investigating a case (Articles 14, 15).

**DRAFT**

**LAW**  
**OF THE REPUBLIC OF ARMENIA**  
  
**ON MAKING AMENDMENTS AND SUPPLEMENTS TO THE CRIMINAL CODE**  
**OF THE REPUBLIC OF ARMENIA**

**Article 1. In Article 149.1 of the Criminal Code of the Republic of Armenia of 18 April 2003 (hereinafter referred to as "the Code"):**

(1) the title shall be restated as follows:

**"Article 149.1. Compelling to participate in the activities of an election or referendum campaign or compelling to refuse to participate in the activities of campaign",**

(2) part 1 shall be restated as follows:

"1. Compelling to participate in the activities of an election or referendum campaign, including compelling to conduct campaigning, or compelling to refuse to participate in the activities of campaign, including to conduct campaigning —

shall be punished by a fine in the amount of seven-hundred-fold to one-thousand-fold of the minimum salary, or by imprisonment for a term of six months to one year, with deprivation of the right to hold certain positions or to engage in certain activities for a term of one to three years.

**Article 2. The words ", but not later than within a three-day period, " shall be deleted from part 6 of Article 154.2 of the Code.**

**Article 3. The Code shall be supplemented with Article 154.10:**

**Article 154.10. Attracting large amount of illegal funds for financing election expenses**

1. With a view of financing the election expenses, attracting funds on a large-scale exceeding the maximum amount prescribed by Law to make contributions to the fund by a member of a political party or a candidate from sources not provided for by Law, or in favour of a person, a candidate, a political party or alliance of political parties in the given elections —

shall be punished by a fine in the amount of five-hundred-fold to eight-hundred-fold of the minimum salary or by detention for a term of one to three months.

2. The same act committed by use of official position —

shall be punished by imprisonment for a term of one to three years.

3. Within the meaning of this Article, a large-scale shall be deemed the funding equal to the amount exceeding one thousand-fold of the minimum salary."

**Article 4. The Code shall be supplemented with Article 154.11:**

**"Article 154.11. Circumventing on a large-scale the prohibition on making donations to the election fund in excess of the amount prescribed by Law or circumventing on a large-scale the prohibition of funding from sources not provided for by Law**

1. Circumventing the prohibition on making donations by a person to a political party in excess of the amount prescribed by Law, or circumventing the prohibition of funding — by way of representing a donation as made on behalf of another person — from the sources not provided for by Law, committed on a large-scale —

shall be punished by a fine in the amount of five-hundred-fold to eight-hundred-fold of the minimum salary or by detention for a term of one to three months.,

2. The same act committed —

(1) by use of official position;

(2) through engaging two or more persons —

shall be punished by imprisonment for a term of one to three years.

3. Within the meaning of this Article, a large-scale shall be deemed to be the amount exceeding one-thousand-fold of the minimum salary."

**Article 5. The Code shall be supplemented with Article 154.12:**

**"Article 154.12. Compelling to make a donation to election fund**

1. Compelling to make a donation to election fund —

shall be punished by a fine in the amount of two-hundred-fold to three-hundred-fold of the minimum salary or by detention for a maximum term of two months.

2. The same act committed —

1) by use of official position;

2) against two or more persons;

3) on a large-scale —

shall be punished by detention for a term of two to three months or by imprisonment for a maximum term of two years.

3. Within the meaning of this Article, a large-scale shall be deemed to be the amount exceeding one-hundred-fold of the minimum salary."

**Article 6. The Code shall be supplemented with Article 154.13 .**

**"Article 154.13. Failure to make election campaign-related expenses from the campaign fund or submitting a false declaration on the use of means of election fund or failure to submit a declaration**

1. Failure to make a significant amount of election campaign-related expenses from the election fund, when it is an obligation prescribed by the "Electoral Code" Constitutional Law of the Republic of Armenia, submitting false data in a declaration on the use of means of the election fund or concealing the data subject to declaration —

shall be punished by a fine in the amount of five-hundred-fold to seven-hundred-fold of the minimum salary or by imprisonment for a maximum term of one year.

2. Within the meaning of part 1 of this Article, a significant amount shall be deemed to be the amount exceeding 1 per cent of the maximum amount envisaged for making election-related expenses in the given election, as prescribed by the "Electoral Code" Constitutional Law of the Republic of Armenia, but not less than AMD 100 000.

3. Failure to submit a declaration on the use of means of election fund for summarisation of the results of elections as of the term (day) prescribed by the "Electoral Code" Constitutional Law of the Republic of Armenia —

shall be punished by a fine in the amount of seven-hundred-fold to one-thousand-fold of the minimum salary or by imprisonment for a maximum term of one year.

4. The act referred to in part 1 of this Article, in which case the amount of unused expenses of the election fund or falsified (concealed) amount of expenses in the declaration exceeds 10 per cent of the maximum amount for making election-related expenses in the given election, as prescribed by the Electoral Code Constitutional Law of the Republic of Armenia —

shall be punished by imprisonment for a term of two to three years".

**Article 7. The Code shall be supplemented with Article 154.14:**

**"Article 154.14. Compelling a candidate running in elections to submit an application for recusal**

1. Compelling a candidate running in election of the National Assembly, the council of elders or community head to submit an application for recusal —

shall be punished by detention for a term of two to three months, or by imprisonment for a term of six months to one year.

2. The same act which —

- 1) has been committed by use of service or other dependence;
- 2) has been committed by use of official position;
- 3) has been accompanied by use or threat of use of violence;

- 4) has been committed by a group of persons;
- 5) has been accompanied by depriving a person of liberty;
- 6) against two or more persons —

shall be punished by imprisonment for a term of two to four years, with deprivation of the right to hold certain positions or to engage in certain activities for a term of one to three years".

**Article 8. The Code shall be supplemented with Article 154.15:**

**"Article 154.15. Publishing false information or slander about a political party (alliance of political parties) or a candidate running in elections**

1. Publishing — during the period of election campaign, on the voting day, before the end of the voting, or on the preceding day — false information or slander via information and communication technologies, anonymous source, about a political party (alliance of political parties) or a candidate running in elections, for the purpose of damaging the reputation thereof —

shall be punished by a fine in the amount of five-hundred-fold to one-thousand-fold of the minimum salary.

2. The act referred to in part 1 of this Article, which has been committed:

- (1) against two or more persons;
- (2) with mercenary purposes;
- (3) by a group of persons acting in conspiracy;
- (4) by use of administrative resources;
- (5) via five or more anonymous sources —

shall be punished by a fine in the amount of one-thousand-fold to two-thousand-fold of the minimum salary, or by imprisonment for a term of six months to two years.

3. The act referred to in part 1 of this Article which has been committed by an organised group —

shall be punished by imprisonment for a term of two to four years.

4. The acts referred to in points 1, 2, 4, and 5 of part 2 of this Article, which have been committed by an organised group —

shall be punished by imprisonment for a term of four to six years."

**Article 9. Article 163 of the Code shall be restated as follows:**

**"Article 163. Obstructing holding of assemblies or participation therein, compelling to participate in assemblies or motivating materially to make a person participate in assemblies or refuse to participate in assemblies**

1. Obstructing holding of assemblies or participation therein —

shall be punished by a fine in the amount of one-hundred-fold to three-hundred-fold of the minimum salary, or by detention for a maximum term of three months, or by imprisonment for a maximum term of six months.

2. Compelling to participate in assemblies or compelling to refuse to participate in assemblies or motivating materially to make a person participate in assemblies or refuse to participate in assemblies —

shall be punished by a fine in the amount of four-hundred-fold to six-hundred-fold of the minimum salary or by imprisonment for a term of six months to one year.

3. The acts provided for in part 2 of this Article, committed:

- (1) by use or threat of use of violence;
- (2) against two or more persons;
- (3) during the period of election campaign —

shall be punished by imprisonment for a maximum term of three years.

4. The acts provided for by part 2 of this Article, which have been committed by a person holding a public position or by a public servant against a public servant under his / her official subordination or supervision or against another person working on a contractual basis —

shall be punished by imprisonment for a term of three to five years, with deprivation of the right to hold certain positions or to carry out certain activities for a term of one to three years."

**Article 10. Article 314.1 of the Code shall be restated as follows:**

**"Article 314.1. Violating the prohibition of dual citizenship**

Concealing the fact of having citizenship of another state from the authorised body of the Government or failure — within a five-day period from the moment of becoming aware of the fact — to inform the authorised body thereon, which has been committed by a deputy of the National Assembly, a candidate for deputy of the National Assembly, the President of the Republic, a candidate for President of the Republic or by an official or a person, who seeks to hold such a position, who according to the Constitution or laws can be only a citizen of the Republic of Armenia —

shall be punished by imprisonment for a term of three to five years, with or without deprivation of the right to hold certain positions or to engage in certain activities for a maximum term of three years."

**Article 11. After Article 154.9, Annex 6 of the Code shall be supplemented with the following corruption crimes:**

**"Article 154.10.** Attracting large amount of illegal funding for financing election expenses;

**Article 154.11.** Circumventing on a large-scale the prohibition on making donations to the election fund in excess of the amount prescribed by Law or circumventing on a large-scale the prohibition on funding from sources not provided for by Law;

**Article 154.13.** Failure to make election campaign-related expenses from the election fund or submitting a false declaration on the use of means of election fund or failure to submit a declaration."

**Article 12 Concluding part**

1. This Law shall enter into force on the day following its official promulgation.



**DRAFT**

**LAW  
OF THE REPUBLIC OF ARMENIA**

**ON MAKING AMENDMENTS AND SUPPLEMENTS TO THE CODE  
OF THE REPUBLIC OF ARMENIA ON ADMINISTRATIVE OFFENCES**

**Article 1. In Article 40.1 of the Code of the Republic of Armenia on Administrative Offences of 6 December 1985 (hereinafter referred to as "the Code"):**

(1) part 2 shall be restated as follows:

"Conducting campaigning — on the voting day and the day preceding it — via mass media, including via radio and television broadcasting through cable network and satellite connection, terrestrial and on-line broadcast, shall:

entail imposition of a fine on the person or the head carrying out media activities in the amount of five-hundred-fold to seven-hundred-fold of the minimum salary.";

(2) it shall be supplemented with part 3:

"Placing — on the voting day and the day preceding it — political advertisement on the Internet, shall:

entail imposition of a fine on the natural person having placed political advertisement on the Internet in the amount of one-hundred-fold to two-hundred-fold of the minimum salary; on the legal persons having placed advertisement in the amount of three-hundred-fold to five-hundred-fold of the minimum salary".

**Article 2. Article 40.3 of the Code shall be restated as follows:**

**"Article 40.3" Failure by a candidate or a political party (alliance of political parties) to set up a campaign fund, submit a declaration on the use of funds, submit the declaration in violation of the procedure prescribed by law or failure to make election campaign-related expenses from the campaign fund**

1. Failure by a candidate or a political party (alliance of political parties) to set up a campaign fund, where setting it up is an obligation prescribed by the "Electoral Code" Constitutional Law of the Republic of Armenia, submit a declaration on the use of funds within the time limit prescribed by law, submit the declaration in violation of the procedure prescribed by law or failure to make election campaign-related expenses from the campaign fund, shall:

entail imposition of a fine in the amount of three-hundred-fold to five-hundred-fold of the minimum salary".

**Article 3. Article 40.8 of the Code shall be restated as follows:**

**"Article 40.8. Conducting an election campaign or referendum campaign by persons not entitled to conduct a campaign, or using thereby administrative resources for the purpose of an election campaign or referendum campaign**

1. Conducting an election or referendum campaign — within the period prescribed for campaign by law — by persons not entitled to conduct an election or referendum campaign, shall:

entail imposition of a fine on the citizens in the amount of one-hundred-fold to two-hundred-fold of the minimum salary, and on officials — in the amount of two-hundred-fold to four-hundred-fold of the minimum salary.

2. Use of administrative resources for election or referendum campaign purposes, including use of financial and information means, premises, means of transport and communication, human resources provided for performing official responsibilities, except for the security measures applicable in respect of high-ranking officials subject to state protection under the Law "On ensuring the safety of persons subject to special state protection", use of information not subject to publication, use of official position, real or alleged influence to gain advantage at elections, shall:

entail imposition of a fine on the citizens in the amount of two-hundred-fold to four-hundred-fold of the minimum salary, and on officials — in the amount of four-hundred-fold to eight-hundred-fold of the minimum salary".

**Article 4. In Article 40.9 of the Code:**

- (1) in the title, the words "or journalistic" shall be added after the word "sociological";
- (2) in the first paragraph, the words "election campaigning" shall be replaced with the words "an election campaign", and the words "or journalistic" shall be added after the word "sociological";
- (3) the second paragraph shall be restated as follows:

"Publishing the results of sociological or journalistic poll in relation to candidates, political parties (alliance of political parties) running in elections, as well as information thereon via mass media, including via radio and television broadcasting through cable network and satellite connection, terrestrial and on-line broadcast, or via the print media, as well as through the Internet on the day preceding the voting, as well as till 20:00 on the voting day, shall:

entail imposition of a fine on the person or organisation having made the publication in the amount of eight-hundred-fold of the minimum salary."

**Article 5. In Article 40.11 of the Code:**

- (1) in the first paragraph, the words "election campaigning" shall be replaced with the words "an election campaign";
- (2) in the second paragraph, the words "referendum campaigning" shall be replaced with the words "a referendum campaign".

**Article 6. In Article 40.15 of the Code:**

- 1) (1) in the title, the words "or in the nearby vicinity" shall be added after the words "at the polling station";
- (2) part 3 shall be supplemented as follows:

"3. Continuous parking of a car or continuous presence of a person in the nearby vicinity — with up to 50 metre radius — to a polling station, including the entrance thereof on the voting day, where it continues after a verbal warning, shall:

entail imposition of a fine in the amount of thirty-fold of the minimum salary".

**Article 7. The Code shall be supplemented with Article 40.16:**

**"Article 40.16. Posting campaign posters, printed campaign and other materials in violation of the procedure prescribed by law**

1. Posting — within the period of election campaign — campaign posters, printed campaign and other materials in violation of the procedure prescribed by law, shall:

entail imposition of a fine in the amount of one-hundred-fold to three-hundred-fold of the minimum salary".

**Article 8. The Code shall be supplemented with Article 40.17:**

**"Article 40.17. Carrying out charity work by organisations within a period prohibited by law**

1. Carrying out charity work — within the period from the entry into force of the decision on calling for elections or a referendum until summarisation of the results of the elections or referendum — by organisations which (names whereof) may be associated with political parties (alliances of political parties), candidates running in elections, as well as by organisations founded or managed by political parties (alliances of political parties) or candidates in the communities where elections are held wherein these candidates, political parties (alliances of political parties) or candidates nominated thereby are running, shall:

entail imposition of a fine on the official of the organisation in the amount of two-hundred-fold to four-hundred-fold of the minimum salary".

**Article 9. The Code shall be supplemented with Article 40.18:****"Article 40.18. Attracting illegal donation in the campaign fund**

1. Attracting donation in the campaign fund by a member of the political party or a candidate thereof from sources not provided for by law, or attracting donation in favour of a person, candidate, political party or alliance of political parties having the right to elect during the elections concerned, that exceeds the maximum amount of making contributions to the campaign fund prescribed by law, shall:

entail imposition of a fine on the member of the political party or the candidate thereof in the amount of two-hundred-fold to five-hundred-fold of the minimum salary".

**Article 10. The Code shall be supplemented with Article 40.19:****"Article 40.19. Circumventing the prohibition on not to exceed the amount of contributions to the campaign fund prescribed by law or the prohibition to receive donations from sources not provided for by law**

1. Circumventing — by way of representing a donation as made on behalf of another person — by a person the prohibition on not to exceed the maximum amount of contributions to the campaign fund prescribed by law, shall:

entail imposition of a fine in the amount exceeding the maximum amount prescribed by law.

2. Circumventing — by way of representing a donation as made on behalf of another person — by a person the prohibition to receive donations from sources not provided for by law, shall:

entail imposition of a fine in the amount of the donation".

**Article 11. The Code shall be supplemented with Article 40.20:****"Article 40.20. Combining election campaigning with official secondments**

1. Combining election campaigning with official secondments by officials of state and local self-government bodies, as well as conducting thereby election campaigning during official secondments or after completion of the official activities conditioned by the secondment, by using administrative resources, shall:

entail imposition of a fine on the official in the amount of six-hundred-fold to one-thousand-fold of the minimum salary".

**Article 12. The Code shall be supplemented with Article 40.21:****"Article 40.21. Failure by third persons to register with the Central Electoral Commission, making expenses exceeding the maximum amount prescribed by law for the purpose of participating in the election campaign or failure to submit a declaration on the expenses made for election campaigning purposes**

1. **Failure by third persons** to register — within the time limit and in cases prescribed by law — with the Central Electoral Commission as prescribed by the "Electoral Code" Constitutional Law, shall:

entail imposition of a fine in the amount of three-hundred-fold to five-hundred-fold of the minimum salary".

2. Making expenses exceeding the maximum amount prescribed by law for the purpose of participating in the election campaign by the third persons as prescribed by the "Electoral Code" Constitutional Law, shall:

entail imposition of a fine in the amount of expenses exceeding the maximum amount prescribed by law .

3. Failure by third persons to submit — in the manner and within the time limit prescribed by law — to the Oversight and Audit Service a declaration on the expenses made for election campaigning purposes as prescribed by the "Electoral Code" Constitutional Law, shall:

entail imposition of a fine in the amount of six-hundred-fold to one-thousand-fold of the minimum salary."

**Article 13. The Code shall be supplemented with Article 40.22:**

**"Article 40.22. Failure to use individual protective measures or violating the rules of sanitary and epidemiological safety in the situation of epidemic in an electoral precinct or when conducting election campaigning**

1. Entering an electoral precinct or participating in the voting — in the situation of epidemic — without using individual protective measures or in violation of the rules of sanitary and epidemiological safety, shall:

entail imposition of a fine in the amount of ten-fold to fifty-fold of the minimum salary.

2. Conducting election campaigning — in the situation of epidemic — without using individual protective measures or in violation of the rules of sanitary and epidemiological safety, shall:

entail imposition of a fine on the person conducting election campaigning in the amount of fifty-fold to two-hundred-fold of the minimum salary."

**Article 14. In point 6 of Article 223 of the Code, the words "by Articles 40.6-40.15" shall be replaced with the words "by Articles 40.6-40.22".**

**Article 15. In Article 254 of the Code:**

(1) in point 1 of the first paragraph, the words "by Articles 40.13-40.15" shall be replaced with the words "by Articles 40.13-40.15 and Articles 40.17-40.21";

(2) in point 2 of the first paragraph, the number "40.16" shall be added after the number "40<sup>12</sup>";

(3) in point 3 of the first paragraph, the number "40.22" shall be added after the words "of this Code";

(4) in the third paragraph, the words "by Articles 40.6-40.15" shall be replaced with the words "by Articles 40.6-40.22", and the words "or the head of the competent state or local self-government body" shall be added after the words "the competent electoral commission".

**Article 16. Concluding part and transitional provisions**

1. This Law shall enter into force on the day following its official promulgation.
2. Article 12 of this Law shall enter into force from 1 January 2022.

**DRAFT**

**LAW  
OF THE REPUBLIC OF ARMENIA**

**ON MAKING SUPPLEMENTS TO THE LABOUR CODE  
OF THE REPUBLIC OF ARMENIA**

**Article 1.** Part 1 of Article 171 of the Labour Code of the Republic of Armenia of 9 November 2004 (hereinafter referred to as "the Code") shall be supplemented with new point 7, which reads as follows:

"(7) election leave."

**Article 2.** The Code shall be supplemented with new Article 176.2, which reads as follows:

**"Article 176.2. Election leave**

1. For the purpose of participating in election campaign and conducting election campaigning, persons holding public positions and those in public service may be provided with unpaid leave in the manner and for the period prescribed by the Electoral Code."

**Article 3. Concluding part**

1. This Law shall enter into force on the day following the day of the official promulgation.

**DRAFT**

**LAW  
OF THE REPUBLIC OF ARMENIA**

**ON MAKING SUPPLEMENTS TO THE LAW "ON PUBLIC SERVICE"**

**Article 1.** The words ", political restraint" shall be added after the words "political neutrality" in part 5 of Article 3 of the Law "On public service" of 23 March 2018 (hereinafter referred to as "the Law").

**Article 2.** Article 27 of the Law shall be supplemented with part 3 which reads as follows:

"3. The public servant, when performing his or her official duties, shall not be entitled to bear signs symbolising political party affiliation".

**Article 3.** The Law shall be supplemented with Article 27.1 which reads as follows:

**"Article 27.1. Political activities of public servants**

1. Public servants shall be obliged to show political restraint in all circumstances.
2. Political activities of public servants shall not cast doubts on impartiality of the public service.
3. Public servants shall be entitled to participate in election campaign as prescribed by the Electoral Code, by maintaining political restraint.
4. Public servants, when participating in political or public discussions, events, including election campaigning, shall not be entitled to act ex-officio or indicate the official position, title thereof or use by any means the reputation of the position thereof for the benefit of a political party (alliance of political parties) or a candidate.
5. The provision prescribed by part 4 of this Article shall not apply to public servants acting as candidates in elections.
6. Participation of a public servant — as an official — in discussions of political nature during the time period of election campaign shall have exclusively an informative nature and express the official position.



**Article 4. The words "including for election campaign" shall be added after the words "non-official purposes" in point 5 of part 1 of Article 32 of the Law.**

**Article 5. Concluding part**

1. This Law shall enter into force on the day following the day of the official promulgation.

## PROPOSAL FOR ELECTORAL SYSTEM

### CONCEPT

For many years, the party systems in the Republic of Armenia have developed in non-classical and non-democratic ways. Therefore, considering the imperative of consolidating and developing political parties for the strengthening and continuous development of democracy, the introduction of methods of internal democracy promotion within political parties becomes a priority. To this end, it is proposed to discuss the introduction of **an open-list proportional electoral system** within the framework of the amendments to the Electoral Code.

This type of electoral system, with various modifications, is used in more than two dozen European countries and in more than four dozen other countries worldwide.

The details of the proposed system are presented below.

#### **The national lists of political parties (alliances of political parties)**

1. Each political party (alliance of political parties) running in the elections nominates one national list.
2. On a national electoral list of each political party, alliance of political parties and political parties included in the alliance, the number of representatives of each gender starting from the first number, in any integer triplets (1-3, 1-6, 1-9 etc, till the end of the list), should not exceed 70%. The national electoral list of political parties (alliances of political parties) may also include candidates who are not members of a given political party (any of the political parties forming alliance). Their number may not exceed 30% of the total number of candidates on a national electoral list.

#### **Ballot papers**

1. Separate ballot papers of the same size are printed for each political party running in the parliamentary elections. The first page of the ballot paper shall indicate the name of the political party participating in the elections and the number given to the political party. The second page of the ballot paper shall indicate the surnames, first names and patronymics of the first forty (conditional) candidates included in the national electoral list of the political party running
2. in the elections, according to the order of political parties (alliances of political parties) electoral list. Blank squares are provided to the right of the candidates' names for the voters to make notes.

The name of political party

1	Name, Surname	
2	Name, Surname	
3	Name, Surname	
4	Name, Surname	
5	Name, Surname	
6	Name, Surname	V
7	Name, Surname	
8	Name, Surname	
9	Name, Surname	
10	Name, Surname	
11		
12		
13		
14		
15		
16		

**Summarization of the voting results**

The results of the parliamentary elections are summarized as follows:

1. The number of seats for each political party is determined based on the votes received in the elections.
2. The seats are distributed based on the following principle:
  - Candidates, with more than 5% of the total votes received by a political party, are the primary candidates in the distribution of seats.
  - Next are the candidates included in national electoral list of political parties, according to the list order.

**Example of summarizing the voting results**

Suppose a political party running in elections receives 100,000 votes, resulting in 10 seats (conditional). The table below shows the voting results according to the candidates.

N/N	Name, Surname	Votes	Seats
1.	Candidate #1	11 558	1
2.	Female candidate #2	3 486	
3.	Candidate #3	4 385	
4.	Candidate #4	2 688	
5.	Female candidate #5	236	
6.	Candidate #6	6 345	2
7.	Female candidate #7	1 242	
8.	Candidate #8	150	
9.	Candidate #9	1 460	
10.	Candidate #10	5 200	4
11.	Female candidate #11	3 598	
12.	Candidate #12	1 435	
13.	Candidate #13	658	
14.	Female candidate #14	6 237	3

In this case, the seats are first distributed among the candidates having received more than 5% (5,000 votes) of 100,000 votes cast, next are the candidates on the national electoral list, in order. Accordingly, the seats will be distributed in the following order:

1 seat - Candidate #1,

2 seats - Candidate #6,

3 seats - Female candidate #14,

4 seats - Candidate #10,

5 seats - Female candidate #2,

6 seats - Candidate #3,

7 seats - Candidate #4,

8 seats - Female candidate #5,

9 seats - Female candidate #7,

10 seats - Candidate #8:

## **A STUDY OF INTERNATIONAL EXPERIENCE**

The institutional basis of the proportional electoral system is proportional representation (PR). A vivid example of PR is the structure of the European Parliament, where the number of seats in member states is proportional to the number of given state's population.

Proportional electoral system may be open- and closed-list.

In contrast to the closed-list PR system, in which citizens are practically unable to make changes in electoral lists submitted by political parties, in open-list PR system, the will of the citizens significantly affects which candidates on the list will appear in parliament.

Some expert opinions show that open-list PR system is the best and the most effective of all the options, as it enables a flexible form of party lists, ensuring the link between voters and candidates. Latvia's open-list PR system is quite special in this respect; voters have the opportunity not only to vote against the candidate nominated by the party list, but also to remove his/her name from the list.

The open-list PR system has been introduced in dozens of European, Asian, African and American countries, including Germany, Italy, Greece, Belgium, Sweden, Norway, Switzerland, Austria, Croatia, the Netherlands, Brazil, Indonesia, Japan, the Democratic Republic of Congo and elsewhere.

In Austria, elections to the National Council, the country's legislative body, are held by open-list representation in 9 major constituencies (arranged by the national administrative units, i.e. federal districts) and 39 "secondary" constituencies. Voters at the federal, regional, and district levels have the opportunity to cast a vote for their preferred candidate on a party list. The threshold for running on party lists is 7% at the federal level, 10% at the state level, and 14% at the constituency level. Voters have an opportunity to cast a vote for their preferred candidate on party lists at federal, regional, and district levels. The thresholds for a candidate to move up the list are 7% of the candidate's party result on the federal level, 10% - on the state level and 14% - on the electoral district.

In Croatia, every citizen has a so-called trust number, through which he can contribute to the internal democracy of political parties. Thus, a candidate who passes the 10% threshold within a political party can gain an advantage over the person in the leading position on electoral list, if he/she receives more votes.

In the Czech parliamentary elections, voters are allowed to cast 4 preferential votes. They have the opportunity to elect only the candidate who receives more than 5% of the preferential votes at the regional level (in that case, the candidate takes precedence over the one with the leading position in a party list, but relatively few votes received). For the elections to the European Parliament, the procedure is almost identical (except for the fact that each voter is only allowed 2 preferential votes).

In Indonesia, any candidate who obtains at least 30% of the quota is automatically elected.

Sweden is known as one of the “most open” PR systems, although the Electoral Code of the country provides a 5% threshold for the promotion of a candidate on a party list. Thus, there may be a case when the leading candidate, nominated by a political party, receives relatively few votes, and do not enter Riksdag, the legislative body.

The systems with the “most open” lists operate in Finland, Latvia and Brazil. In these countries, the absolute number of votes a candidate receives fully determines the outcome of elections, so the candidate ranking on the list is almost of no significance, otherwise called “tiebreak”.

In contrast to a number of countries where citizens cast a vote for their preferred political force or candidate on electoral list, Sweden, which has adopted an open-list PR system, stands out for a number of peculiarities. In Sweden, each political party (alliance of political parties) running in the parliamentary elections has a separate ballot paper, which does not differ in size, color or quality. The electoral management body provides voters with the opportunity to use three different ballot papers.

- The first type of ballot paper, known as the “party ballot paper” is designed for citizens who have a preferred political party but do not wish to vote for a particular candidate nominated by that political party (alliance of political parties).
- The second type of ballot paper, known as the “name ballot paper” is designed for citizens who have a preferred candidate nominated by party lists. Citizens have the right to use both the first and the second ballot papers at the same time.
- On the third type of ballot paper, known as a “blank ballot paper”, voters have the opportunity to write the name of their preferred political force, which does not participate in the elections. In case of obtaining the defined number of votes, the political force not participating in the elections may receive the right of representation.

The process of compiling party lists in Sweden is based on a number of principles. These are the popularity of the candidate, his/her campaigning skills, the prohibition of discrimination, the involvement of national minorities, the gender quota, and so on. Meanwhile, the list put forward by political parties may change significantly depending on the outcome of the elections. “The Elections Act” stipulates that the candidates whose votes exceed 8% of the total number of votes cast for a political party, are first to participate in the distribution of seats (in case of parliamentary elections).

In the Netherlands, elections to the two chambers of the legislature (the States General), the Senate and the House of Representatives, are also held on open-list proportional representation. The Dutch electoral system is similar to Sweden, but there are fundamental differences at the functional level. To be promoted to the party list, a candidate must receive at least 25% of the party’s total quota. The relatively high percentage threshold is due to the peculiarities of the political culture of the Dutch society, as in this country most people vote exclusively for the top candidate. There are also instances when people, with certain expectations, prefer newcomers to politics or some women as usual vote for the first woman candidate on the list of their preferred political force.

In the 2003 elections, due to the open-list PR system, Hilbrand Nawijn, the former minister of migration and integration was elected into parliament with more than 25% of the vote of confidence, even though he was the last candidate on the list.